

  
**भारत का राजपत्र**  
**The Gazette of India**

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 23] नई दिल्ली, मंगलवार, जुलाई 14, 1998 / आषाढ़ 23, 1920

No. 23] NEW DELHI, TUESDAY, JULY 14, 1998 / Asadha 23, 1920

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

**LOK SABHA**

The following Bill was introduced in Lok Sabha on 14th July, 1998

BILL No. 78 OF 1998

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

- |  |                       |
|--|-----------------------|
| 1. This Act may be called the Constitution (Eighty-fifth Amendment) Act, 1998.                                       | Short title           |
| 2. In article 269 of the Constitution, for clauses (1) and (2), the following clauses shall be substituted, namely:— | Amendment article 269 |

(1) Taxes on the sale or purchase of goods and taxes on the consignment of goods shall be levied and collected by the Government of India but shall be assigned and shall be deemed to have been assigned to the States on or after the 1st day of April, 1996 in the manner provided in clause (2).

*Explanation.*—For the purposes of this clause—

(a) the expression “taxes on the sale or purchase of goods” shall mean taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;

(b) the expression “taxes on the consignment of goods” shall mean taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.

(2) The net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Union territories, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.’.

Substitution of  
new article for  
article 270

3. For article 270 of the Constitution, the following article shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1996, namely:—

Taxes and  
duties levied  
and collected  
by the Union  
and distributed  
between the  
Union and the  
States

‘270. (1) All taxes and duties referred to in the Union List, except the duties and taxes referred to in articles 268 and 269, respectively, surcharge on certain taxes and duties referred to in article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States in the manner provided in clause (2).

(2) Such percentage, as may be prescribed, of the proceeds of any such tax or duty, excluding refunds in any financial year, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed in the manner provided in clause (3).

(3) In this article, “prescribed” means,—

(i) until a Finance Commission has been constituted, prescribed by the President by order, and

(ii) after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission.’.

Substitution of  
new article for  
article 271.

4. For article 271 of the Constitution, the following article shall be substituted, namely:—

Surcharge on  
certain duties  
and taxes for  
purposes of the  
Union.

‘271. (1) Notwithstanding anything contained in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in clause (2) by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

(2) The duties or taxes referred to in clause (1), are as follows, namely:—

- (a) taxes on income other than agricultural income;
- (b) duties in respect of succession to property other than agricultural land;
- (c) estate duty in respect of property other than agricultural land;
- (d) terminal taxes on goods or passengers carried by railway, sea or air;
- (e) taxes on railway fares and freights;

(f) taxes other than stamp duties on transactions in stock exchanges and futures markets;

(g) taxes on the sale or purchase of newspapers and on advertisements published therein;

(h) taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;

(i) taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.”.

5. (1) Article 272 of the Constitution shall be omitted.

Omission of  
article 272.

(2) Notwithstanding anything contained in sub-section (1), where any sum equivalent to the whole or any part of the net proceeds of the Union duties of excise including additional duties of excise which are levied and collected by the Government of India and which has been distributed as grants-in-aid to the States after the 1st day of April, 1996, but before the commencement of this Act, such sum shall be deemed to have been distributed in accordance with the provisions of article 270, as if article 272 had been omitted with effect from the 1st day of April, 1996.

(3) Any sum equivalent to the whole or any part of the net proceeds of any other tax or duty that has been distributed as grants-in-aid to the States after the 1st day of April, 1996 but before the commencement of this Act shall be deemed to have been distributed in accordance with the provisions of article 270.

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## STATEMENT OF OBJECTS AND REASONS

The Tenth Finance Commission had submitted its report on the 26th November, 1994 for the period of five years, *i.e.*, from 1995-96 to 1999-2000. The said report was laid on the table of both the Houses of Parliament on the 14th March, 1995. One of the recommendations of the Commission that has been pending under consideration of the Government is an alternative scheme of sharing of taxes between the Union and the States. The main feature of this scheme is that a fixed percentage of the total proceeds of Union taxes is to be assigned to the States. This is in contrast to the present scheme of sharing of Union taxes between Union and the States whereby the proceeds of personal income-tax and Union excise duty is shared between the Union and the States

2. The alternative scheme envisages that twenty-six per cent. out of the total proceeds of Union taxes (excluding stamp duties, excise duties on medicinal and toilet preparation, Central sales tax, taxes on consignment of goods where such consignment takes place in the course of inter-State trade or commerce and surcharge on tax) is to be assigned to the States in lieu of their existing share in income-tax, the basic excise duties, special excise duties and grants in lieu of tax on railway passenger fare.

3. In addition to above, three per cent. share out of the total proceeds of all Union taxes (excluding stamp duties, excise duties on medicinal and toilet preparation, Central sales tax, taxes on consignment of goods where such consignment takes place in the course of inter-State trade or commerce and surcharge on tax) is to be assigned to the States in place of existing share in additional excise duties in lieu of sales tax on tobacco, cotton and sugar. The Commission has proposed that tobacco, cotton and sugar may continue to be exempt from sales tax and the additional excise duties in lieu of sales tax on these items may be merged with the basic excise duties.

4. The benefit of the alternative scheme of sharing of Union taxes between the Union and the States will depend on relative growth in the collection of taxes which are to be pooled.

5. The benefit of the scheme are as follows:—

(i) with a given share being allotted to the States in the aggregate revenues from Union taxes, the States will be able to share the aggregate buoyancy of Union taxes;

(ii) the Union Government can pursue tax reform without the need to consider whether a tax is shareable with the States or not;

(iii) the impact of fluctuations in Union tax revenues would be felt alike by the Union and the State Governments;

(iv) should the taxes mentioned in articles 268 and 269 of the Constitution form part of this arrangement, there will be a great likelihood of their being tapped; and

(v) the progress of reforms will be greatly facilitated if the ambit of tax sharing arrangement is enlarged so as to give greater certainty of resource flows to, and increased flexibility in tax reform.

6. The above scheme recommended by the Commission is in national interest as it helps to remove a perceived inter-tax bias in the tax mobilisation effort of the Government of India while leaving sufficient flexibility for meeting Centre's exclusive needs by keeping cesses and surcharges outside the pooling arrangement.

7. A discussion paper bringing out various aspects of the scheme was laid on the table of both the Houses of Parliament on the 20th December, 1996 with a view to generate an informed debate.

8. On the basis of a consensus reached in the Third Meeting of the Inter-State Council held on the 17th July, 1997, the then Government had agreed in principle to accept the scheme recommended by the Tenth Finance Commission subject to certain modifications but the Lok Sabha was dissolved before a Constitution (Amendment) Bill giving effect to the decision could be introduced in Parliament.

9. The Government has decided to ratify the decision taken by the previous Government according in principle approval for the scheme recommended by the Tenth Finance Commission. The scheme has been accepted subject only to one modification. The modification is that the percentage of States' share in the total proceeds of Union taxes may be reviewed by successive Finance Commissions instead of freezing it for fifteen years as suggested by the Tenth Finance Commission.

10. In order to implement this decision, this Bill seeks to amend articles 269 to 272 of the Constitution so as to bring several Union taxes like Corporation tax and customs duties at par with personal income-tax as far as their constitutionally mandated sharing with the States is concerned.

11. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;

YASHWANT SINHA.

*The 29th June, 1998.*

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#### PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F.10(4)-B(S)/97 dated the 6th July, 1998 from Shri Yashwant Sinha, Minister of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Constitution Amendment Bill, 1998 for giving effect to, with some modifications, the recommendations of the Tenth Finance Commission regarding an Alternative Scheme of Devolution of Central Taxes, recommends under article 274(1) and article 117(1) of the Constitution of India, the introduction in and the consideration under article 117(3), respectively, of the Bill by Lok Sabha.

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S. GOPALAN,  
*Secretary-General.*

